



Express Mail No. EE507465909US

**DECLARATION FOR PATENT APPLICATION AND  
POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I (we) believe we are the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled

**INTERMEDIATE RELEASE NICOTINIC ACID COMPOSITIONS  
FOR TREATING HYPERLIPIDEMIA HAVING UNIQUE CMAX, TMAX  
AND AUC BIOPHARMACEUTICAL CHARACTERISTICS**

the specification of which

(Check one)

[ ] is attached hereto.

[X] was filed on October 31, 1997 as Application Serial No. 08/962,027

[ ] was amended on (if applicable).

I (we) hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I (we) acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I (we) hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):

			<u>Priority Claimed</u>	
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I (we) hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I (we) acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>08/814,974</u>	<u>03/06/97</u>	<u>Pending</u>
(Application Serial No.)	(Filing Date)	(Status)
		(Patented, Pending, Abandoned)
<u> </u>	<u> </u>	<u> </u>
(Application Serial No.)	(Filing Date)	(Status)
		(Patented, Pending, Abandoned)

I (we) hereby appoint the following as our representative(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: **PETER J. MANSO** (Reg. No. 32,264), **A. M. (ANDY) ARISMENDI, JR.** (Reg. No. 31,715), **JOHN R. KIRK, JR.** (Reg. No. 24,477), **GERALD T. WELCH** (Reg. No. 30,332), **C. PATRICK TURLEY** (Reg. No. 35,723), **LISA H. MEYERHOFF** (Reg. No. 36,869), **KEVIN R. HANSBRO** (Reg. No. 38,485), **ALAN R. THIELE** (Reg. No. 30,694).

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JENKENS & GILCHRIST  
1100 Louisiana, Suite 1800  
Houston, Texas 77002

I (we) hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor Eugenio A. Cefali

Inventor's signature *Eugenio A. Cefali*

Date 3/18/98

Residence 5221 NW 78th Terrace, Lauderhill, Florida 33351

Citizenship USA

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Applicant or Patentees: Eugenio A. Cefali  
Serial No. 08/962,027  
Filed or Issued: October 31, 1997  
Atty. Dkt No. 32892.27/PJM  
Title: Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Cmax, Tmax and AUC Biopharmaceutical Characteristics

**STATEMENT CLAIMING SMALL ENTITY STATUS  
STATUS (37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN KOS Pharmaceuticals, Inc.  
ADDRESS OF SMALL BUSINESS CONCERN 1001 South Bayshore Drive, Suite 2502, Miami, FL 33131

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees with the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

- ☐ the specification filed herewith with title as listed above  
☒ the application identified above  
☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization having any rights in the invention is listed below:

- ☒ no such person, concern, or organization exists.  
☐ each such person, concern or organization is listed below.

Separate statements are required from each named person, concern or organization having rights to the invention stating their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

NAME OF PERSON SIGNING: DANIEL M. BELL  
TITLE OF PERSON OTHER THAN OWNER: PRESIDENT  
ADDRESS OF PERSON SIGNING: 1001 South Bayshore Drive, Suite 2502, Miami, Florida 33131

SIGNATURE

DATE

3/20/98